

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL NO. 4:07CR173
§
STEPHANIE SMITHSON (1) §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 2, 2012, to determine whether Defendant violated her supervised release. Defendant was represented by Frank Henderson. The Government was represented by Mandy Griffith.

On April 30, 2008, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 51 months imprisonment followed by a 3-year term of supervised release, for the offense of bank robbery. Defendant began her term of supervision on April 29, 2011.

On June 1, 2012, the U.S. Probation Officer filed a Petition for Offender Under Supervision (the "Petition") (Dkt. 54). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not unlawfully possess a controlled substance. Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as

determined by the court; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for alcohol and drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer; and (4) Under the guidance and direction of the U.S. Probation Office, Defendant shall participate in any combination of psychiatric, psychological, or mental health treatment as deemed appropriate by the treatment provider.

The Petition alleges that Defendant committed the following violations: (1) On April 6, 2012, Defendant submitted a urine specimen to Genesis Counseling Associates, P.C. (GCA), Dallas, Texas, that tested positive for amphetamine. Furthermore, on April 24, 2012, Defendant admitted verbally and in writing to U.S. Probation Officer (USPO) Oscar Salinas that she used methamphetamine periodically on or about April 4 through 21, 2012; (2) On May 1, 2012, Defendant failed to report to Homeward Bound, Dallas, Texas, as directed by the probation officer, and participate in their detoxification program as a result of heroin and methamphetamine abuse. Defendant was also directed to enroll and participate in the Salvation Army inpatient treatment program after completing the detoxification program and failed to do so. Moreover, on May 7, 2012, Defendant contacted USPO Salinas and reported she was at the Homeward Bound detoxification center and indicated she was going to be released on or about May 11, 2012. Defendant provided false information regarding her whereabouts that day, as records from Homeward Bound indicated Defendant never enrolled in the program. Attempts to contact her telephonically since gaining knowledge of her absence in the program, May 21, 2012, have been unsuccessful. Her whereabouts

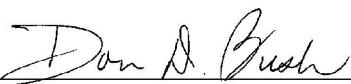
are unknown at this time; and (3) Defendant failed to attend counseling sessions as required on December 19, 2011, and April 2, 2012. On each occasion, Defendant failed to notify the treatment counselor prior to the scheduled treatment session of any issues preventing her from attending the required appointment, or to reschedule the appointment.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived her right to allocute before the district judge and her right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of her supervised release and that her supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the July 2, 2012 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirteen (13) months, with 23 months supervised release to follow. The Court further recommends that the sentence should be carried out at the Carswell facility, if appropriate.

SIGNED this 16th day of July, 2012.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE